

The opinion in support of the decision being entered today
is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PETER WORTHINGTON HAMILTON
and
KENNETH STEPHEN McGUIRE

Appeal 2007-2548
Application 09/716,740
Technology Center 1700

Decided: September 6, 2007

Before EDWARD C. KIMLIN, JEFFREY T. SMITH, and
LINDA M. GAUDETTE, *Administrative Patent Judges*.

KIMLIN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1-15, 17, 18, 38-52, 54, 55, 75, 80, 81, and 86-102. Claim 38 is illustrative:

38. A storage wrap material comprising: a sheet of non-porous material having a first side and a second side, said sheet of material having a gauge in the range from about 0.0001 inches to about 0.002 inches, said first side comprising an active side exhibiting an adhesion peel force after activation

by a user that is greater than an adhesion peel force exhibited prior to activation by a user, said active side further comprising a plurality of three dimensional non-adherent protrusions extending outwardly from said sheet of material and a pressure-sensitive adhesive surrounding said non-adherent protrusions, said adhesive having a thickness less than the height of said non-adherent protrusions before activation, said active side being capable of forming a continuous seal, wherein said sheet of material is linerless, such that activation of said active side requires no removal of components of said sheet of material, said sheet of material being sufficiently flexible to conform readily to a desired surface and having sufficiently small resiliency that it does not exert undue restorative forces that would tend to cause said sheet of material to break contact with such a desired surface.

In addition to the admitted prior art, the Examiner relies upon the following reference as evidence of obviousness:

Sanders	US 5,344,693	Sep. 6, 1994
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Appellants' claimed invention is directed to a storage wrap material comprising a sheet of non-porous material having a gauge in the range of from about 0.0001 inches to about 0.002 inches. The active side of the material exhibits an adhesion peel force after activation by the user, and comprises a plurality of protrusions which extend outwardly from the sheet of material. A pressure-sensitive adhesive surrounds the protrusions and has a thickness less than the height of the protrusions before activation.

Appealed claims 1-15, 17, 18, 38-52, 54, 55, 75, 80, 81, and 86-102 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sanders in view of the admitted prior art.

Appellants do not set forth an argument that is reasonably specific to any particular claim on appeal. Accordingly, all the appealed claims stand or fall together with claim 38.

We have thoroughly reviewed each of Appellants' arguments for patentability. However, we are in complete agreement with the Examiner that the claimed subject matter would have been obvious to one of ordinary skill in the art within the meaning of § 103 in view of the applied prior art. Accordingly, we will sustain the Examiner's rejection.

There is no dispute that Sanders, like Appellants, discloses a sheet, or web, of plastic material having an active side comprising an adhesive surrounding protrusions which allow for the active surface to contact itself upon rolling without sticking together. Sanders does not specifically disclose that the sheet material is a storage wrap and is silent with respect to the gauge of the adhesive sheet. However, as recognized by Appellants, storage wrap materials comprising thin sheets of plastic were well known in the art at the time of filing the present application, and we are satisfied that one of ordinary skill in the art would have found it obvious to construct a storage wrap material from the adhesive sheet of Sanders. Both Appellants and Sanders are concerned with the ability of the sheet material to be formed into a roll without sticking to itself. Also, Appellants make no argument that the claimed gauge is anything different than what is conventional in the art for storage wrap material. We note that Appellants' Specification attaches no criticality to the gauge of the wrap material but simply discloses that

“[p]referred material gauges are about 0.0001 inches . . . to about 0.010 inches . . .” (sentence bridging Specification 26-27). As such, a disclosed preference should seem to allay any suggestion of criticality.

Appellants maintain that “nothing in the Sanders reference suggests that the disclosed structures would benefit from the addition of a high degree of conformability together with a low resiliency” (Reply Br. 4, second para.). However, we are persuaded that one of ordinary skill in the art would have had the wherewithal to impart the degree of conformability and resiliency to a sheet material of the type disclosed by Sanders when utilizing it as a storage wrap material. Appellants make no argument that the presently claimed properties of “sufficiently flexible” and “sufficiently small resiliency” are anything other than properties that one of ordinary skill in the art would have routinely designed for storage wrap material.

We also observe that Appellants base no argument upon objective evidence of nonobviousness, such as unexpected results, which would serve to rebut the inference of obviousness established by the Examiner.

One final point remains. Appellants make reference to related Application 10/701,039, filed November 4, 2003 (*see* principal Br. 1). The related Application was under appeal and, in a decision dated February 21, 2007, this Board sustained the Examiner’s rejection under 35 U.S.C. § 103(a) of similar claims to a storage wrap material comprising an active side having a plurality of protrusions extending therefrom. Different prior art was cited by the Examiner in the related Application. Accordingly, in the

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event of further prosecution of the subject matter at bar, the Examiner should also consider a rejection under 35 U.S.C. § 103 over the prior art cited in the related Application.

In conclusion, based on the foregoing, the Examiner's decision rejecting the appealed claims is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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